



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE; STATE OF CALIFORNIA

In the Matter of the Appeal of
WESTERN COMPRESS COMPANY

For Appellant: W. E. Parry, Assistant Secretary

For Respondent: Burl D. Lack, Chief Counsel;
Israel Rogers, Assistant Counsel

O P I N I O N

This appeal is made pursuant to Section 25667 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Western Compress Company against proposed assessments of additional franchise tax in the amounts of \$576.05 \$83.81, \$142.75, \$285.88 and \$488.48 for the taxable years ended July 31, 1957, July 31, 1957 July 31, 1958, **July** 31, 1959 and July 31, 1960, respectively.

Appellant is a California corporation with its principal office and place of business in this state. It is a subsidiary of Anderson, Clayton & Co., a foreign corporation, and operates public warehouses and cotton compressing plants in California and one plant in Arizona.

Only such working capital as it requires in the operation of its business is retained by Appellant. Any excess is deposited with the parent corporation, subject to immediate withdrawal, and the parent pays interest thereon to Appellant. Conversely, when Appellant is short of working capital, it borrows the needed amount from the parent and pays interest upon it at the same rate.

Appellant reported as income that portion of the interest due from the parent which exceeded the interest owed to the parent and allocated it between California and Arizona. Respondent re-allocated the reported interest income entirely to California as the domiciliary state in reliance upon Appeal of American Airlines, Inc., Cal. St. Bd. of Equal., Dec. 18, 1952, 1 CCH Cal. Tax Cas. Par. 200-195, 2 P-H State & Local Tax Serv. Cal. Par. 13120; Appeal of Crown Zellerbach Corp. Cal. St. Bd. of Equal., Feb. 17, 1959, 2 CCH Cal. Tax Cas. Par. 201-244, 2 P-H State & Local Tax Serv. Cal. Par. 13197; Appeals of Fibreboard Products, Inc., Cal. St. Bd. of Equal., Feb. 17, 1959, 2 CCH Cal. Tax Cas. Par. 201-245, 2 P-H State & Local Tax Serv. Cal. Par. 13199; and Appeal

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of American President Lines, Ltd., Cal. St. Bd. of Equal., Jan. 5, 1961, CCH Cal. Tax Rep. Par. 201-677, 2 P-H State & Local Tax Serv. Cal. Par. 13239. In these appeals we held that interest on investments in United States securities is not subject to allocation among the states where business is conducted, but is assignable entirely to the corporate domicile.

Our rationale in the above appeals was that the source of the interest income was the investment in government bonds and not the operation of the business. Similarly, the source of Appellant's interest income was not the operation of its warehouse and cotton compressing business, but the deposit of excess and otherwise idle funds. These funds were not required in and were not integral parts of the business. Regardless of whether they could have been withdrawn at any time, there is no indication that Appellant used them in its day to day operations,

Appellant states that Respondent has accepted its returns for many years without questioning the method of reporting the interest. This circumstance, however, does not prevent correction of the error for the years here involved. (Mount Vernon Trust Co. v. Commissioner, 75 F. 2d 938, cert. denied 296 U. S. 587 [80 L. Ed. 415].) Insofar as equities are concerned, it is pertinent to note that the Arizona Tax Commission has concluded that none of the interest here in issue is subject to the Arizona income tax and has refunded the amount paid by Appellant upon the interest which it allocated to that state.

We find no error on the part of Respondent in issuing the notices of proposed assessments.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUGLED AND DECREED, pursuant to Section 25667 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Western Compress Company against proposed assessments of additional franchise tax

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in the amounts of \$576.05, \$83.81, \$142.75, \$285.88 and \$488.48 for the taxable years ended July 31, 1957, July 31, 1957, July 31, 1958, July 31, 1959 and July 31, 1960, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 1st day of October, 1963, by the State Board of Equalization.

John W. Lynch, Chairman

Paul R. Leake, Member

Geo. R. Reilly, Member

Richard Nevins, Member

 , Member

ATTEST: H. F. Freeman, Executive Secretary